

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

6:69cv07941-BB

RIO CHAMA STREAM SYSTEM

Section 4, Rio El Rito

ORDER GRANTING JOINT MOTION FOR SUPPLEMENTAL ORDER
ON IRRIGATION WATER REQUIREMENTS
IN SECTION 4 OF THE RIO CHAMA STREAM SYSTEM

THIS MATTER is before the Court on the January 8, 2009, Joint Motion of the Plaintiff State of New Mexico, *ex rel.* State Engineer (“State”), and the El Rito Ditch Association for the entry of a Supplemental Order on irrigation water requirements in Section 4 of the Rio Chama Stream System (“El Rito Section”) (Docket No. 9369). Being fully advised in the premises, the Court finds that the Motion is well-taken and should be GRANTED.

In addition, the Court finds:

1. the State and the El Rito Ditch Association should (a) serve a copy of the Supplemental Order to each defendant in the El Rito Section in order to clarify the record in this case and (b) publish a notice of the filing of the Supplemental Order by the Court, including in the notice where the full text of the Supplemental Order is available for inspection;
2. the bylaws of the El Rito Ditch Association should be included with the Supplemental Order solely to inform the defendants that, pursuant to September 17, 1998, Stipulation and Settlement

Agreement (No. 5824), the bylaws shall govern the distribution of water among the community ditches, and between community ditches and the irrigators they serve. The inclusion of these bylaws should not, therefore, be construed as an approval or adoption of the bylaws by the Court in these proceedings. Any challenge to the validity of those bylaws, or action to enforce them, shall be the subject of a separate proceeding in a court with original jurisdiction over such an action.

IT IS ORDERED, THEREFORE, that the State and the El Rito Ditch Association shall

1. prepare a proposed Supplemental Order on Irrigation Water Requirements in the El Rito Section amending the 1973 Agreement on Water Rights and Consent Judgment entered May 30, 1973, (No. 2373) and all individual subfile orders entered in the El Rito Section to date with respect to the determination of irrigation water requirements in the El Rito Section as described in the Joint Motion filed January 8, 2009;¹

2. append to the proposed Supplemental Order a) a list of all subfile orders which will be affected by the order, and (b) the current bylaws of the El Rito Ditch Association; and

3. after entry of the Supplemental Order, serve by first class mail a copy of the Supplemental Order and the current El Rito Ditch Association Bylaws to each of the defendants in the El Rito Section, publish a notice of the filing of the Supplemental Order by the Court in the Rio Grande Sun once each week for four (4) consecutive weeks, and file an appropriate notice of mailing and affidavit of publication.

IT IS FURTHER ORDERED that the inclusion of the El Rito Ditch Association bylaws with the Supplemental Order shall not be construed as an approval or adoption of the bylaws by the Court

¹ Prior to submission to the court, counsel shall submit the proposed Supplemental Order to the Court's database manager for clerical and technical review.

in these proceedings. Any challenge to the validity of those bylaws, or action to enforce them, shall be the subject of a separate proceeding in a court with original jurisdiction over such an action.

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:

Vickie L. Gabin

SPECIAL MASTER VICKIE L. GABIN